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A new NATO (or, maybe just an improved one)

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A NEW NATO
(Or, maybe just an improved one)

A Paper
Presented to the Faculty
of
The Fletcher School of Law and Diplomacy
by
Stephen C. Trainor

**In partial fulfillment of the requirements for the
Degree of Master of Arts in Law and Diplomacy**

Diplomacy 202
Professor Alan Henrikson

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²See Coral Bell, "Why Russia Should Join NATO," The National Interest (Winter 1990/91): 37-47, for a comparison of the emerging situation in Europe to the Concert of Europe of 1815.

See also, John Mearsheimer, "Back to the Future: Instability in Europe After the Cold War," International Security 15 (Summer 1990): 5-56, for an analysis of the dangers of the emerging European multipolarity in contrast to both 1914 and 1939.

This paper proposes what is at present needed in Europe is a significant revision in the way security issues are perceived and managed. However, owing to the realities of the international system and the definite souring in the "Spirit of 1989," this writer intends to rein in this paper's focus and concentrate on a subject equally as important as peaceful democratic change is to the "New World Order," but far less spectacular.³ Therefore, this paper will address the changes required in the North Atlantic Treaty Organization (NATO) in order to make it more cohesive as an international regime and more responsive to the future dimensions of security in Europe. The means by which such cohesion can be built within NATO is through the effective practice of consultation. This paper will demonstrate, by examination of official NATO statements and the actual practice of its members, that NATO has developed the necessary framework within which the action of effective consultation may take place. Second, this paper will recommend specific changes in structure and procedure which this writer believes will improve the alliance's consultative efficacy allow NATO to contribute more significantly to the future security of Europe.

The recent political and social changes which have enveloped the

³President George Bush, "NATO and the US Commitment to Europe," Commencement Address at Oklahoma State University, 4 May 1990, Department of State Current Policy 1276 (May 1990): 2.

President George Bush, "Toward a New World Order." Address before a joint session of Congress, Washington, D.C., 11 September 1990, US Department of State Dispatch 1, no. 3 (17 September 1990): 91-94.

Central and Eastern European states and the Soviet Union can be viewed as a major catalyst in the drive to bring about a change in the present security structures of NATO. However, there are many more substantive issues to be addressed in this regard than solely change in NATO's structure resulting from the disappearance of a former adversary. Collective security concerns for Europe and North America, in addition to traditional collective defense provided by NATO, must be equally focused on the future uncertainties and threats posed by, but not limited to, ethnic and nationalist divisiveness, environmental interests, economic interdependence and instability, proliferation of war material, arms control initiatives, and terrorism. Now, more than ever, collective security as an ideal must be equally military, economic, and political in nature. And now, more than ever, NATO must involve itself in each of these areas to contribute more to the collective security of Europe itself.

It is assumed by this writer that, for the present time, the North Atlantic Alliance is an effective component of the European security equation. The basis for this argument is presented in the following declarations:

- (a) NATO has won the Cold War and, as such, its effectiveness and success in doing so must be considered as profound enough to merit retention as representative of the dominant social system of modern Europe, that of democracy and the free-market;
- (b) The structure of NATO possesses the necessary elements for an expanded role in the formulation of security issues in Europe, equality of arms, consultation procedures, and consensus decision-making;
- (c) The maintenance of NATO is the most viable means by which the United States can exercise influence and continue its ties to Europe;
- (d) NATO as a collective defense agreement still asserts some viability in the face of challenges to existing and emerging threats to

Western interests.⁴

First, this paper will define briefly what is required in terms of basic regime theory to support the development of an effective framework for the embodiment of alliance security interests. Second, an analysis of the historical basis of consultation in NATO will be conducted within the model of regime theory as presented in the first section. Third, an examination of four important crisis situations will serve to shape an understanding of consultation within the context of actual practice. Based upon this analysis and examination, a general evaluation of the effectiveness of consultation and cooperation in NATO will be provided. Finally, recommendations will be made for improvements in the structure of NATO that will help to bring about a proactive environment of change in Europe, thus completing the rejoinder from the West to the "Revolution of 1989."

REGIME THEORY

In order to better understand how effective the consultation process in NATO has come to be, it is imperative to distinguish the term "consultation" from "negotiation," in the sense that it is applicable to NATO. In a study on

⁴See New York Times, 15-20 February 1991 and onward regarding controversy over Top Level Equipment (TLE) and implementation of the Conventional Armed Forces in Europe (CFE) agreement. See also New York Times, 21-24 April 1991 regarding challenges to Soviet President Gorbachev's leadership and increasing calls for a return to hard-line rule.

political consultation in NATO, Roger Hill⁵ describes consultation as a "situation in which persons are conferring or conversing in order to impart information, exchange views, obtain reactions, or decide something."⁶ This idea of consultation is set apart from negotiation even further, in that there is an assumption of common interests over a certain range of subjects; a common purpose; and common ultimate goals. This notion of interests, purpose, and goals and the very action of consultation is closely related to the model presented by Stephen Krasner in his study of regimes.⁷

For the purposes of this paper, the regime theory model developed by Krasner, may be interposed as a set of principles, norms, rules, and procedures guiding the behavior of Parties to the North Atlantic Treaty. The principles and norms directing the North Atlantic Alliance are based in Western democratic ideals and liberal capitalism; whereas, the rules and procedures allowing the alliance to function effectively are based upon the ideas of collective defense and consultation. Thus, from Krasner's model and Hill's description of consultation one concludes that the act of consultation, while an essential procedure of this regime, also serves as the basis for bringing together Parties espousing common values, interests, and behavioral systems, or, as

⁵A member of the NATO Secretariat for five years.

⁶R. J. Hill, Political Consultation in NATO, (Ottawa: Operational Research and Analysis Establishment, Department of National Defence, 1975), 2.

⁷Stephen D. Krasner, ed., International Regimes (Ithaca, NY: Cornell University Press, 1983), 20.

Krasner has described them, the principles and norms of the regime.

HISTORICAL BASIS OF CONSULTATION

Western Europe and North America came together in a political and military union after World War II for two fundamental reasons. The first reason was to provide a political and military counterbalance to the power of the Soviet Union in Europe. The Second was to create a structure within which the nations of Western Europe and their North American Allies, Canada and the United States, could promote peaceful and productive relationships among themselves, bringing to an end the cycles of internal conflict that had produced two world wars in the 20th century.⁸

The North Atlantic Treaty was signed in April of 1949 as the political framework for an international alliance designed to "prevent aggression, or to repel it, should it occur".⁹ The treaty provides for continuous cooperation and consultation in political, economic, and military fields. In the North Atlantic Treaty, the idea of consultation is first addressed in Article 2, whereby the Parties to the Treaty will:

contribute toward the further development of peaceful and friendly international relations by strengthening their free institutions, by bringing about a better understanding of the principles upon which these

⁸NATO In The 1990's: Special Report of the North Atlantic Assembly, 1988, 17.

⁹"The North Atlantic Treaty," NATO Handbook (Brussels: NATO Information Service, 1989), 13.

institutions are founded, and by promoting conditions of stability and well-being.¹⁰

Furthermore, Article 4 provides for the mandatory consultation between the Parties whenever *any* of them deems that "the territorial integrity, political independence or security of *any* of the Parties is threatened (*emphasis added*).¹¹ Unlike many international agreements, NATO members can determine what constitutes a threat to the peace individually and call upon collective consultations within the alliance.

The consultation provision is facilitated by the establishment of a permanent structure for the implementation and maintenance of the Treaty. This structure is provided for in Article 9 and creates a "Council, on which each of them [members of NATO] shall be represented."¹² Furthermore, Article 9 requires that the "Council shall be so organized as to be able to meet promptly at any time."¹³ Thus, understanding that the central purpose of the Alliance is the collective defense of the member states, the only means for determining a threat to one of the Parties, short of a direct attack, is through the consultation provided in Article 4 and in the permanent structure created by Article 9. Additionally, the objective of developing peaceful relations by strengthening free institutions, provided for in Article 2, rounds out the scope

¹⁰Ibid

¹¹Ibid, 14.

¹²Ibid, 15.

¹³Ibid.

of NATO consultations to include a myriad of issues, ranging from defense and politics to economics and the environment.

The forms of consultation in NATO vary greatly and depend upon the circumstances in which they are used. These forms range from the most customary declarations and resolutions presented by Heads of State or Foreign Ministers at Ministerial Council Meetings to the least formal associations and ad hoc gatherings in the passageways of NATO Headquarters.¹⁴ In any manner, consultation in NATO involves any number of the following actions:

- (1) Imparting information unilaterally, exchanging information bilaterally or multilaterally;
- (2) Notifying others of national decisions already taken, but without expecting any reaction on their parts;
- (3) Notifying others of decisions already taken, in such a way as to build consent for them;
- (4) Consulting in advance on national actions that affect the interests of others;
- (5) Consulting internationally to ascertain in advance the possible reaction to a national decision not yet made (that is, as an input to the national decision itself);
- (6) Consulting in advance on a matter lending itself to separate parallel national actions by others;
- (7) Consulting for the purpose of arriving at a decision which by its nature must be taken or carried into action collectively.¹⁵

Based on this exhaustive list, it is easy to see how consultation has come to include such a wide range of issue areas, and why the enormous potential

¹⁴See Roger Hill, Political Consultation in NATO: Parliamentary and Policy Aspects, (Ottawa: Operational Research and Analysis Establishment, Department of National Defence, 1975), for a detailed study of the actual interaction between members of NATO.

¹⁵Harlan Cleveland, NATO: The Transatlantic Bargain (New York: Harper and Row, 1970), 19.

exists within the conduct of consultation to strengthen international regimes such as NATO. Consultation as a form of inter-allied diplomacy complements that which alliance members conduct between themselves bilaterally and multilaterally and, combined with state-to-state relations, makes up the regional foreign policy of each of these states.

Contrary to what many might believe, decision-making in the North Atlantic Council is not its most important function. Instead, the primary role is the exchange of information and assessments, the analysis of intelligence, and the ability to "foster consultation and contingency planning so that confidence among the allies can be generated, differences in perception narrowed, and the basis laid for rapid, coordinated action should the necessity arise."¹⁶ Thus, conclusions drawn from this section are, first, that consultation exists as the primary diplomatic activity between members of the North Atlantic Council and, second, that the very practice of consultation results in the strengthening of a regime's (such as NATO's) political structure.

CONSULTATION IN PRACTICE

The practice of consultation has evolved during the more than four decades of NATO's existence and has been expanded and refined in a number of significant Council efforts. In 1952, the Council in Permanent Session

¹⁶Peyton V. Lyon, NATO as a Diplomatic Instrument, (Toronto: The Atlantic Council of Canada, 1970), 12.

replaced the Council Deputies and, subsequently, became the primary organ for diplomatic exchange between members of the alliance in the absence of Foreign Ministers and Heads of State. The first major revision of NATO's doctrine on cooperation and consultation was undertaken in May 1956, with the creation of the Committee on Non-Military Cooperation.¹⁷ Also termed the report of the "Three Wise Men," after the members of the committee, Gaetano Martino of Italy, Halvard Lange of Norway, and Lester B. Pearson of Canada, the committee sought to improve consultation within the alliance in light of difficulties resulting from attempts to establish a European Defence Community (EDC), settlement of the German question, and some early burden-sharing debates.¹⁸

In the report of the "Three Wise Men," specific recommendations relative to procedures for Foreign Ministers' Meetings and the need for a Committee of Political Advisors to the Permanent Representatives were advanced.¹⁹ The report also addressed, for the first time, the idea of an "Atlantic Community" embodied in the coming together of NATO nations. This embodiment was the basis for the growth of NATO into an organization

¹⁷The North Atlantic Treaty Organization: Facts and Figures (Brussels: NATO Information Service, 1989), 31.

¹⁸See Robert S. Jordan, ed., Generals in International Politics: NATO's Supreme Allied Commander, Europe (Lexington, KY: University Press of Kentucky, 1987), 57-64, for a review of these issues during General Alfred Gruenther's tenure as SACEUR (1953-1956).

¹⁹Thomas Kennedy, Jr., NATO Political-Military Consultation (Washington, DC: National Defense University Press, 1984), 9.

designed to serve and protect the common Atlantic interests, and was described as follows:

...the development of an Atlantic Community whose roots are deeper even than the necessity for common defence. This implies nothing less than the permanent association of the free Atlantic peoples for the promotion of their greater unity and the protection and the advancement of the interests which, as free democracies, they have in common.²⁰

The impetus for inaugurating the Committee of Three was strikingly similar to events which have recently brought to the fore a question of the utility and durability of NATO. The report of the "Three Wise Men", in many respects, holds as great an impact for decisions regarding NATO's future today, as in 1956. The committee was established as a response to claims that NATO was no longer necessary in light of Stalin's death in 1953 and the subsequent overtures elicited by Khrushchev for a "peaceful coexistence" with the West. Some of the claims presented by critics, against NATO's continuation in 1956, which appear to have a rather timeless quality include, "the pooling of strength and resources...in defense of imperial privileges; and an Atlantic hegemony under the leadership of the United States."²¹ Following the dramatic events of 1989 there have been innumerable occasions in which the efficacy of NATO has been derided for reasons quite similar to those presented in 1956.²²

²⁰NATO: Facts and Figures, 387.

²¹Ibid, 388.

²²See Pierre Hassner, "Europe beyond partition and unity: disintegration or reconstitution?," International Affairs(U.K.) 63 (June 1990): 461-475.

See also Jack Snyder, "Averting Anarchy in the New Europe,"

(continued...)

The need for modification and improvement in the functioning of NATO is by no means disputed, however a complete dismantling of the organization because of incomplete changes in the Soviet Union and Eastern Europe, a direct result of NATO's very existence, seems foolish at best. As Admiral "Bud" Edney, Supreme Allied Commander Atlantic, has stated, "A wise man does not throw away his overcoat on the first warm day of spring."²³ Likewise, the report of the "Three Wise Men," adopted in December 1956, one month after the Soviet Union violently crushed the uprising in Hungary, stated that:

...NATO can show that it is more than a defence organisation acting and reacting to the ebb and flow of the fears and dangers arising out of Soviet policy. It can prove its desire to cooperate fully with other members of the international community in bringing to reality the principles of the Charter of the United Nations. It can show that it is not merely concerned with preventing the cold war from deteriorating into a shooting one; or with defending itself if such a tragedy should take place, but that it is even *more concerned with seizing the political and moral initiative to enable all countries to develop in freedom, and to bring about a secure peace for all nations[emphasis added]*.²⁴

The enlightened thinking of the Committee on Non-Military Cooperation was offered in 1956 and it remains equally applicable to the principles embraced by the West today. It is this writer's belief that the report of the "Three Wise

²²(...continued)

International Security 14 (Spring 1990): 5-41.

See also Admiral Sir Peter Stanford, "NATO Must Go," Proceedings (March 1991): 36-40.

²³Admiral L.A. Edney, SACLANT, "The Importance of the Atlantic to NATO in Changing Times," Jane's NATO Handbook 1990-1991, 147.

²⁴NATO Facts and Figures, 388.

"Men" stands as a tribute to the enduring character of the principles on which the North Atlantic Alliance was founded.

This same report also brought forward the concept, found in the development of the post-war nuclear world, that nations would be unable to rely solely on national power and policy for survival. The increasing interdependence of states politically, economically, and militarily was viewed as the justification for an increasing amount of international cohesion and cooperation at that time.²⁵ Once again, recognizing the shrinking nature of the globe politically, economically, and environmentally; and the broadening of the world's vulnerability to military threats, the ideas presented in 1956 seem as relevant today as they were nearly thirty-five years ago.

The justification for an increased importance being placed on the consultation process can be found in paragraph 42 of the report of the "Three Wise Men." The report recognizes the extreme difficulty in bringing about effective consultation, but states that with proper conviction it will become:

...more than exchange of information, though that is necessary. [Consultation] means more than letting the NATO Council know about national decisions that have already been taken; or trying to enlist support for those decisions. It means the discussion of problems collectively, in the early stages of policy formation, and before national positions become fixed. At best, this will result in collective decisions on matters of common interest affecting the Alliance. At the least, it will ensure that no action is taken by one member without a knowledge of the views of the others.²⁶

²⁵Ibid, 389.

²⁶Ibid, 390.

The solid basis of the report of the Committee on Non-Military Cooperation served to broaden the scope of consultation within the Atlantic Alliance and functioned as the primary elaboration of this issue until the mid-sixties when the mission and further existence of the organization were called into question again. This time the 1967 report on The Future Tasks of the Alliance (more commonly known as the Harmel Report) served to instill a renewed and expanded purpose to the alliance in light of several significant and trying events occurring at this time.²⁷ These events included, the movement of the Alliance Headquarters to Belgium following France's decision to leave the military structure of NATO; the revision of NATO's nuclear strategy, which adopted the concept of Flexible Response, based upon an adaptable and balanced range of responses, conventional and nuclear, to all levels of aggression or threats of aggression; an increased tension within the Alliance as a result of crises, such as, between Greece and Turkey in Cyprus; and the increasing public and diplomatic criticism of the role of the United States in Indo-China.²⁸

Against this backdrop emerged another attempt to improve the consultative functions of the Alliance in the Harmel Report. This report

²⁷Ibid, 403.

²⁸See Robert S. Jordan and Werner Feld, Europe in The Balance: The Changing Context of European International Politics (London: Faber and Faber, 1986), 215-233, for a discussion on intra-regional political and military cohesiveness in NATO.

sought to promote the "dualism of maintaining peace (by military means) and creating peace (through an active policy of detente)."²⁹ The report went even further to engage a dissertation on the importance of consultation to the actual process envisioned in NATO:

As sovereign states the Allies are not obliged to subordinate their policies to collective decision. The Alliance affords an effective forum and clearing house for the exchange of information and views; thus, each Ally can decide its policy in the light of close knowledge of the problems and objectives of the others. To this end the practice of frank and timely consultations needs to be deepened and improved...The chances of success will clearly be greater if the Allies remain on parallel courses, especially in matters of close concern to them all; their actions will thus be all the more effective.³⁰

The Harmel Report went on to emphasize the issue of NATO's global responsibility, which was also addressed in the report of the "Three Wise Men" in 1956. Paragraph 32 of the 1956 document and paragraph 15 of the 1967 document stress the importance of NATO's global responsibilities within the realm of the United Nations and the "broader interests of the whole international community."³¹ These statements serve as the basis of justification that NATO is not a island isolated in its interests.

The next significant document, which addressed consultation within NATO, was the Ottawa Declaration of June 1974.³² This Declaration, as the

²⁹Joachim Brockpahler, "The Harmel Philosophy: NATO's creative strategy for peace," NATO Review (December 1990): 19.

³⁰NATO Facts and Figures, 403.

³¹Ibid, 388.

³²Ibid, 405.

previous reports, emerged amidst a flurry of international controversies, this time concerning the developing bilateral relationship between the United States and the Soviet Union on strategic nuclear weapons; the Watergate Scandal in the United States; and the first Middle East Oil Crisis following the 1973 Arab-Israeli War. These critical events served to focus the sights of alliance members on the issue of consultation even greater than before, as it became evident that their interests were becoming more entwined and increasingly vulnerable to other allies' actions.

The Ottawa Declaration specifically moved to regain NATO's political balance by reinforcing the obligation for consultation in the following manner:

The Allies...are firmly resolved to keep each other fully informed and to strengthen the practice of frank and timely consultations by all means which may be appropriate on matters relating to their common interests as members of the Alliance, bearing in mind that these interests can be affected by events in other areas of the world.³³

The idea of "frank and timely discussions" emerged as a key statement in both the Harmel Report and the Ottawa Declaration and indicated a definite emphasis on pre-consultation in circumstances impacting alliance interests.

Finally, during last summer's London Summit, NATO moved even closer toward the achievement of its stated goals of "seizing the political and moral initiative.. to bring about a secure peace for all nations" with the profound elaboration of its willingness to enhance the functions of the alliance, and yet promote change and development in Europe through complementary

³³Ibid, 406.

institutions.³⁴ At the North Atlantic Alliance London Summit of 5-6 July 1990, the Heads of State of the alliance members declared several bold, new initiatives and redefined alliance objectives which reflect both the internal changes of NATO and the external changes in Europe. Those changes were intended to serve as the foundation for the emergence of any future security regime in Europe.

It was declared that the "Conference on Security and Cooperation in Europe (CSCE) should become more prominent in Europe's future through institutionalization, so as to provide a forum for wider political dialogue in a more united Europe"³⁵. Within this framework for security in Europe, the London Declaration goes on to state that, "NATO must continue to exist not only for the common defense of its members, but to build new partnerships with all the nations of Europe".³⁶ The Declaration provides that the alliance will achieve these objectives, in part, through the maintenance of security and stability militarily, but equally by enhancing the political component of the alliance.³⁷

The London Declaration and the December 1990 Ministerial Communique each seek to enhance the political component of the alliance

³⁴"London Declaration on a Transformed North Atlantic Alliance," NATO Review (August 1990): 32.

³⁵Ibid, 33.

³⁶Ibid, 32.

³⁷Ibid.

found in Article 2 of the 1949 Treaty, and reinforce the security link between North America and Europe "as a framework for broad co-operation among ourselves."³⁸ Further, the alliance sets forth a revised objective for the coming years as NATO will "remain both an anchor of stability and an agent of change."³⁹

Some additional changes to the structure of European security appear to be emerging from this latest NATO Communique, regarding the leadership of the alliance. The alliance, in an effort to meet changing conditions, will strengthen its European pillar with the stated objective of "ensuring a full and equitable sharing of leadership and responsibilities between Europe and North America."⁴⁰ This reinforcement comes as a result of the imminent drawdown of U.S. forces from the continent; the unification of Germany, and the subsequent leadership role it will play in Europe; and the changing economic balance of the United States vis-a-vis the European Community of 1992.⁴¹

One can conclude from these statements that NATO intends to broaden the scope of cooperation and continually factor in elements of change within and around its region of interest. This, no doubt, involves an acknowledged

³⁸"North Atlantic Council Ministerial Communique", NATO Review (December 1990), 22.

³⁹Ibid, 24.

⁴⁰Ibid, 22.

⁴¹See "The North Atlantic Tryst," The Economist (7 July 1990):10-12, for an analysis of the EC and its future relationship with NATO.

increase in the importance of consultation in the development of change in Europe. This point is evident in the understanding that the European pillar of the alliance will truly share in the leadership of NATO in the years to come, diminishing the apparent hegemonic hold the United States has maintained for four decades.

MORAL AND LEGAL EFFECT OF CONSULTATION IN NATO

In analyzing the development of consultation within the Atlantic Alliance, one comes to several conclusions regarding the basis for its establishment, its enduring desirability, and its moral and legal effect. The establishment of consultation as the primary means of informing allies of policy and intentions evolved from the benevolent hegemony which the United States provided NATO from its origins. The allies, being sovereign states, were interested in fostering the development of relations between one another. Consultation on security matters was viewed as the most reasonable and equitable means of achieving this objective.

From the very beginning of the alliance, there existed a constant struggle between the need to consult ones allies on the one hand and the desire to assert one's sovereign right to declare unilateral policy initiatives on the other. This delicate balance was set during the early years of the alliance and has ebbed and flowed with the changing times ever since. The symmetry between consultation and sovereignty has been influenced directly by the

issuance of each of the major policy directives discussed in the preceding section and by several regional and global crises and policies which will be examined in the following section.

There lies a question as to whether or not NATO's consultation process, provided for in the Treaty and subsequent reports and declarations, has established a legal or moral norm, through the codification of the ideas and practice of the states. If it has not, then has the imperative to consult within the Alliance evolved exclusively into a circumstantial moral imperative instead?

The entire legal/moral issue of consultation can be viewed in light of the regime theory model previously discussed. The characterization of a moral or legal obligation to consult can be determined with ease, if, by using Alan Henrikson's descriptions, the consultation embodies:

norms - explicit standards of international behavior that articulate general rights and obligations;
rules - which are more specific prescriptions and prohibitions requiring or forbidding the performance of specific actions and sometimes stipulating benefits to be gained or penalties to be suffered; or,
procedures - the institutional practices and diplomatic methods used in making and implementing collective decisions within international organizations and other multilateral groupings."⁴²

As stated previously, Article 4 of the North Atlantic Treaty lays out the obligation to consult allies, not only when a threat is perceived by one of them, but also prior to undertaking any unilateral action outlined in Article 5

⁴²Alan K. Henrikson, ed., Negotiating World Order: The Artisanry and Architecture of Global Diplomacy, (Wilmington, DE: Scholarly Resources, 1986), xvii.

of the Treaty. This conclusion has been reached because one discovers that the provision calling for consultation (Article 4) lies immediately before the provision authorizing unilateral action (Article 5).⁴³ Furthermore, a resort to unilateral action could have serious implications for allies and, therefore, should be assumed to provide for the expression of interests before any such action is taken.

Additionally, the need to consult allies in the event an action's consequences would have a direct, adverse affect on the alliance's ability to defend against an attack external to the treaty area, or might profoundly strengthen the military capacity of a possible threat to the alliance, is also determined to be "an obligatory norm."⁴⁴ This norm is represented by the obligation, on parties, to consult before denouncing the treaty or modifying significantly the capabilities of the alliance under the treaty (Article 12). This could be construed to include many recurring consultations in NATO that have become accepted as standard practice, such as, annual budget procedures; consultation prior to extraordinary force reductions by any member; the U.S. practice of consulting before appointing Allied Commanders, in particular, SACEUR; and the practice established by President Nixon and continued by Presidents Ford, Carter, and Reagan regarding consultation before undertaking

⁴³Frederic L. Kirgis, Jr., "NATO Consultations as a Component of National Decisionmaking," American Journal of International Law 73 (July 1979): 375.

⁴⁴Kirgis, 404-406.

arms control negotiations of particular concern to the European allies.⁴⁵

These norms and practices clearly express an obligation to consult in the above outlined instances. However, the need to consult "before an initial decision is made, even if the decision establishes a general course of action that is irreversible for all practical purposes" is not mandatory.⁴⁶ Secondly, consultations are required, "as feasible," when a State's action could result in an armed engagement with the Soviet Union. Nonetheless, there is no obligatory norm to consult in the event that a member's crisis decision-making might be adversely affected.⁴⁷

One can assume that a failure to consult, while not being liable to any official enforcement or punishment, will likely result in the decision or action in question to be severely criticized or disregarded, in principle, by the remainder of the alliance. That is, unless, the outcome of the unilateral decision is generally favorable and it is apparent that prior consultation would have been prejudicial to successful action.⁴⁸

Thus, one can judge that consultation in NATO is a norm only to the extent that the decision taken directly impacts the capabilities of the alliance or, when considered possible, in the event of actions which could directly lead

⁴⁵Ibid, 405.

⁴⁶Ibid.

⁴⁷Ibid.

⁴⁸Lyon, 14.

to a confrontation with an external threat to the alliance. The remainder of the consultation taking place within NATO is characterized as diplomatic "procedure," or the intercourse involved in informing and consulting allies regarding policy of common concern. Nevertheless, consultation has played a critical role in advancing the cohesion of the alliance and promoting the policies which have served as the basis for European security in the Post World War II era.

CONSULTATION CRISES

This section will address several cases in which consultation was not employed at all, was not used at the appropriate time, or was not used with the proper conviction. From the following illustrations one will better understand what Parties have actually determined to be within the realm of the obligatory consultative norm, established by the North Atlantic Treaty; the subsequent Declarations of 1956, 1967, 1974, and 1990; and the actual practice of states in the institutionalized framework of the alliance. This examination will not include an investigation of the more positive instances of consultation in NATO. Instead, this paper will demonstrate how the Atlantic Alliance has responded to challenges to the limits of consultation by producing visionary documents reflecting momentous changes in the relationships between alliance members. From this analysis, more informed conclusions may be reached regarding the ability of consultation to continue to reinforce and expand the

effectiveness of NATO as a security regime in Europe.

During the last forty years there have been several crises which have critically challenged the ability of NATO to function as a consultative organization. They have ranged from the unilateral decision by de Gaulle to withdraw all French armed forces from the organized military structure of NATO, to the U.S. crisis decision-making in response to the Cuban Missile Crisis. Each of the events, outlined below, demonstrates the failure of a Party to undertake consultation on an issue which, either directly impacted the ability of the alliance to function, or resulted in a direct threat to the alliance due to an imminent confrontation with the Soviet Union. The ensuing section will describe these events briefly and link each one of them to the development of consultation in NATO. In chronological order, the following crises will be examined: the Suez Crisis of 1956; the Cuban Missile Crisis of 1962; the French decision to leave the integrated military structure of NATO in 1966; and the global military alert established by the United States during the 1973 Arab-Israeli War.

Suez Canal, 1956

Following the nationalization of the Suez Canal by Egyptian President Nasser in July 1956, after the U.S. and Great Britain withdrew financing for the Aswan High Dam, Great Britain and France, in company with Israel launched an attack on Egypt in an attempt to gain control over the canal. Neither Great Britain nor France informed any of their NATO allies of their

plans to invade Egypt. This action took NATO and the entire world by surprise and led to a Soviet threat to intervene with nuclear weapons, thus bringing about a severe crisis for all of the alliance members.

The United States, outraged by the invasion itself, but more so by the lack of prior consultation, immediately denounced the act and pressed the United Nations for an imposed cease-fire and the eventual implementing of a UN police force in the area. The outcry within the alliance over this bilateral action occurred in the days before the violent Soviet invasion of Hungary. The divisiveness of this issue within NATO stymied the consultative organs and preempted an effective and coordinated response to the Hungarian crisis.⁴⁹ These two very significant events served to strengthen the force of the report of the "Three Wise Men," when it was endorsed by the North Atlantic Council at the December 1956 Ministerial Meeting.

Cuban Missile Crisis, 1962

Although situated beyond the territorial responsibility of the alliance, the Cuban Missile Crisis presented a situation in which the very existence of the Atlantic Alliance would become dearly threatened, thereby necessitating, at a minimum, political consultation under Article 4 of the Treaty. However, the limited time frame from discovery to potential activation of the missile sites (approximately ten days) ultimately led the Kennedy Administration to face the crisis unilaterally. There may have been a concern that there was not enough

⁴⁹Kirgis, 398.

time to include the opinions of another set of leaders, in addition to the justification that the incident lay outside of the territorial realm of NATO consultation.⁵⁰

The first notification of NATO allies of a U.S. blockade of Cuba came only 45 minutes before President Kennedy made his speech of 22 October 1962.⁵¹ To further exemplify the point that the U.S. considered no obligation to consult NATO allies, when Dean Acheson was pressed by General de Gaulle as to whether he was there to consult or inform, Acheson replied that he was there to inform only.⁵²

The response of the allies to this action was merely a form of resigned support for the U.S. blockade. Clearly, resentment existed among the smaller NATO allies, who had not even been personally informed, but because of its special relationship as undisputed leader of NATO and the implied immediate threat to Western security, there was little outright criticism for the failure to inform and consult during the Cuban Missile Crisis.⁵³

Despite the tension created during the crisis itself and the resultant internal discord, consultation was still preferred by most of the smaller allies as

⁵⁰Ibid.

⁵¹Cees Wieber and Bert Zeeman, "I don't need your handkerchiefs": Holland's experience of crisis consultation in NATO," International Affairs (U.K.), 66 (January 1991): 97.

⁵²Ibid, 97.

⁵³Josef, Joffe, The Limited Partnership: Europe, the United States, and the Burdens of Alliance (Cambridge: Ballinger, 1987), 2-3.

a means to restrain the adventurous spirit of the larger powers, particularly the U.S., when it came to alliance interests. This approach would allow States to avoid arbitrary entrapment by a decision and would enable them to distance themselves from a position they might consider uncomfortable, by voicing opposition or concerns during Council consultations.⁵⁴ This option remains one of the most attractive aspects of the consultative process for members of NATO who have neither substantial military capabilities nor political influence in the organization.

French withdrawal from the NATO Military Organization, 1966

In March of 1966, without any prior consultation of its allies, General de Gaulle declared that France would remove all of its armed forces under NATO command.⁵⁵ He also announced that all NATO military commands and headquarters, as well as individual allied military establishments would be withdrawn from France.⁵⁶ The French rejected any form of negotiation on the issue, in direct contravention of the provisions of the 1949 Treaty. The French not only failed to observe the established consultative procedures provided for by the Treaty and enhanced in the 1956 Report, but they "arguably breached the implied North Atlantic Treaty obligation to consult by means of a review

⁵⁴Wieber and Zeeman, 100.

⁵⁵French naval forces had already been withdrawn.

⁵⁶Allies could have retained facilities in France if placed under French operational control.

conference if it wished radically to alter its treaty commitment."⁵⁷ However, it should be noted that the allied responses to this action demonstrated the alliance's resolve not to acquiesce in the event of an ally's failure to consult. Thus, the normative character of the obligation to consult was not severely diminished by the French action.⁵⁸

An upsurge of diplomatic activity occurred at the beginning of the Nixon Administration, and was highlighted by more intense consultations between allies, evidenced by the Euro-focused foreign policy of Dr. Kissinger and reorientation of NATO toward detente following the Harmel Report in 1967. However, a crisis accentuated, again, the real division between states on the matter of consultation. The end of U.S. involvement in Indo-China; the British accession to the Common Market in 1972; and European movement toward greater union, all marked a period of time in which the United States was searching to restore its place in the world order. Dr. Kissinger introduced themes relating to a "New Atlantic Charter" and the "Year of Europe" in, what some believed was, an effort to create a new bi-polar relationship between the United States and its European allies.⁵⁹

Arab-Israeli Yom Kippur War, 1973

The confident mood quickly soured as an indication of the real shift in

⁵⁷Kirgis, 384.

⁵⁸Ibid, 384.

⁵⁹Hill, 19.

American priorities emerged with the announcement of a secretly negotiated Agreement on the Prevention of Nuclear War between the U.S. and the Soviet Union.⁶⁰ The agreement called for consultations between the superpowers in the event the relations between them or with one of their allies appeared to risk nuclear war. The agreement also allowed for the notification of allies regarding consultations. However, this agreement resulted in a fear that superpower consultation would take precedence over that which was provided for in NATO and, subsequently, caused a great deal of anxiety within NATO circles.⁶¹

The conditions shifted from bad to worse with the outbreak of the Yom Kippur War in October 1973 and the split between the U.S. and Europe over support for Israel and Arab oil supplies. The situation reached crisis proportions when the U.S., upon learning that the Soviets were readying forces for possible intervention, effected a global alert of all U.S. forces. While designed as a signal of American determination and support for Israel to the Soviet Union, it also served as a severe shock to many NATO allies, who after having no prior consultation or warning, found U.S. forces readying for a confrontation with the Soviet Union on their own soil.⁶² The friction between the U.S. and the rest of NATO continued through the beginning of the next

⁶⁰Ibid, 20.

⁶¹Ibid, 21.

⁶²Ibid, 22.

year due, in part, to differing perceptions of how to address the world oil crisis and general differences of opinion regarding East-West relations.

It was not until the summer of 1974 and the change of government in several European nations⁶³, along with the obvious shift in focus of the embroiled Nixon White House,⁶⁴ that relations improved to previous levels. In June 1975, the Ottawa Declaration reinforced existing arrangements for mutual assistance and cooperation through a series of positive consultative practices. This was an obvious change from what Kissinger's "New Atlantic Charter" originally foresaw as a radically redefined Atlantic relationship within the context of a new world order.⁶⁵ Nonetheless, the Declaration on Atlantic Relations acted to strengthen U.S. resolve to consult allies and avoid any situation imperiling them to external political or military pressure, and "resolved to keep each other fully informed and...strengthen [further] the practice of frank and timely consultations...on matters relating to their common interests."⁶⁶

⁶³French President Pompidou died on 2 April; Portugal experienced a military coup d'état on 25 April; Prime Minister Heath resigned 4 March; Chancellor Brandt resigned 6 May; and the Greek Military government resigned 23 July.

⁶⁴Gerald Ford became the 38th President following Richard Nixon's resignation on 23 July.

⁶⁵Hill, 24.

⁶⁶NATO Facts and Figures, 406.

AN ASSESSMENT OF CONSULTATION IN PRACTICE

From the preceding sections, an appraisal of the effectiveness of consultation in NATO can be developed, from which an understanding of the general ability of the alliance to meet its stated goals and objectives can be achieved. This very brief treatment of the development of the consultative function in NATO and challenges to its enhancement has attempted to focus on the realities of this modern alliance by presenting the obligation to consult in its normative sense, and then contrasting against it attempts to assert state sovereignty, hegemonic domain, or just plain crisis management.

This paper has attempted to portray consultation as a norm, set out with a positive legal basis in the very origins of the North Atlantic Treaty and reinforced innumerable times by declaration and resolution (most notably in 1956, 1967, 1974, and 1990), and then solidified as customary international law by the general practice and expectations of states parties to the Treaty. The delicate balance struck between consultation and sovereignty has travelled the peaks and valleys of the last four decades. However, a general trend toward greater reliance upon this idea, as a norm of international behavior, is observable and is, thus, a general conclusion of this paper.

In consonance with this opinion lies the understanding that relations within the Atlantic Community will continue to become even more interdependent as the alliance moves into its fifth decade. This interdependence is plainly evident in the realms of economics, finance,

technology, culture, the environment, politics, and defense. Not only has Western Europe shared the last forty years of history in a defensive alliance with North America, it also maintains cultural and economic links which are stronger than bonds between any other states in the world. This, among many other considerations, should serve as the basis for a continuing relationship within NATO and presents itself as a logical justification for its continued maintenance. NATO has proven its ability to adapt to the changing circumstances of Europe, and even today, is realizing its goal of becoming "an anchor of stability and an agent of change."

It is important to understand that the changing circumstances which have fashioned the monumental transformation of Europe, have also profoundly impacted the balance within the North Atlantic Alliance itself. The United States will no longer be completely politically, militarily, and economically preeminent in the region or even vis-a-vis many individual allies. There is no confusion regarding America's nuclear commitment to the maintenance of peace in Europe. However, there are new directions and dimensions to security in Europe (such as the environment and Eastern Europe) which can be only served or are best served by European states. The United States understands this and has evidenced a distinct commitment to this new balance in Europe by encouraging a European lead in the effort to aid the struggling Democracies of Eastern Europe.⁶⁷

⁶⁷"An expanding universe," 10.

THE IMPETUS FOR CHANGE

What is most important, however, is that the United States and its NATO allies seize this immense opportunity. NATO must develop and fortify the consultative functions of the alliance in concert with the expanding union of the European Community (EC), the Western European Union (WEU), and the emergence of a Grand European Security Regime in the Conference on Security and Cooperation in Europe (CSCE). This must first be accomplished by improving the ties between NATO allies and, second through improved ties between NATO and other regimes in the region. Strengthening relationships within Europe will provide all members of this "common home" a stake in its maintenance. Now is the time for NATO to move beyond collective defense and become part of a true collective security regime. For if NATO stagnates its decision in the intransigence of the present Soviet dilemma, it will sooner than later be asked to step aside. Thereafter, NATO will come to be known for what it has accomplished, which is astounding in its own right, but not for what it continues to accomplish.

One cannot make such bold challenges without providing some bold suggestions as well. The ideas presented below are based on the premise that, if structural changes are generated which enhance trust and confidence within NATO, then sincere and significant consultation and cooperation will ensue within the alliance. This solid development will ensure that NATO is not only the collective security regime of choice in a democratic Europe, but would give

it a preeminent position alongside the EC and the CSCE as the one of the three pillars of European security.⁶⁸

Instead of diffusing the power of the Atlantic Alliance, as some would profess to do, an effort must be undertaken to consolidate the strength and focus the energy of NATO on issues of greatest concern to its members.⁶⁹ The first means of consolidation would be to alter the Allied Command structure into a bilateral relationship reflecting the true nature of the Atlantic partnership.

With the implementation of the Intermediate Range Nuclear Forces (INF) treaty nearing completion, support from both NATO and the Soviet Union for talks on Short Range Nuclear Forces (SNF), and the imminent departure of sizeable numbers of U.S. forces from the continent, now is the time to create a true European Allied Command.⁷⁰ It appears as only logical that NATO should have a dual command structure. This arrangement would reduce the Channel Command to a subordinate position under the European Command, reflecting the similar role and importance the Channel possesses with the Southern Command in the Mediterranean. This change would, thus,

⁶⁸Pierre Harmel, "The Atlantic Alliance and European Security," The future of European Security (Paris: Assembly of Western European Union, 1989), 31-35.

⁶⁹Peter Corterier, "Transforming the Atlantic Alliance," The Washington Quarterly (Winter 1991): 38.

⁷⁰Luc Reychler, ed., "Transforming Western European Security," European Security Beyond The Year 2000 (New York: Praeger, 1988), 288.

provide NATO with a solid base from which the ties between North America and Europe can be strengthened, not divided. Secondly, this formidable change would bring about a reduction in command components at a time when all alliance members are looking for ways to trim force commitments.

The Atlantic Command signifies the maritime aspect of the alliance. As guarantors of the lines of communication, commerce, and the reinforcement of Europe, North America remains the lifeblood of the Alliance in this respect. Additionally, as the custodian of the long range nuclear insurance policy (SLBMs), it is clear that America still holds the ultimate security of Europe as its foremost goal. Therefore, the Atlantic Command should, and will, remain an equal partner in any collective arrangement between Europe and North America.

The European Command should encompass all that is European and will provide to the military organization a collective feel that it has never known before. The command should rotate between European nations based upon their commitment and contribution to the alliance. This would probably mean that the leadership will fall to either the United Kingdom or Germany for the time being, but might arguably act as a stimulus to bring France back into the military structure of NATO. In any case, the Deputy European Commander should be an American general of four star rank. This would reinforce a U.S. commitment to the defense of Europe, in Europe, and forestall any ethnocentric concerns Congress might have regarding American forces under a

"foreign" command. Obviously, this change should take place after the normal retirement of the incumbent SACUER in order to avoid cries that the United States was subordinating itself in a role which it has maintained dominance since World War II. Thereafter, the Deputy European Commander should remain a junior four star Army General earmarked for future pivotal roles.

A link between the Atlantic Command and the European Command would obviously need to be established in order to coordinate and command the remaining nuclear weapons in Europe. A system of control, between commands, would complement an improved plan for nuclear weapons employment, which would provide a host state veto of nuclear weapons usage from or onto its soil, as well as, a veto by the actual owner of the nuclear armaments.⁷¹ This "double veto" procedure would ensure the control of weapons is even more secure than exists now and would invoke their use only in the event of an imminent invasion or the most critical of emergencies, and then, only after considerable consultation. This plan would follow closely the 1990 NATO Declaration's assertion that nuclear armaments had truly become "weapons of last resort."⁷² Additionally, this plan would serve to "Atlanticize" the ultimate guarantee of the security of Europe, while building a deeper trust among allies concurrently.

A second important change to the military structure of NATO would

⁷¹Reychler, 288.

⁷²"London Declaration," 33.

be the incorporation of the Allied Command Europe (ACE) Mobile Force as a component of a distinct European Multilateral Force under the joint control of the European Command and the Western European Union (WEU). Doing so would provide such a force with significantly enhanced credibility. This structure would also allow the force to meet contingency operations within the Treaty's limits as the ACE Mobile Force (or a portion thereof), or as a WEU element in the event that out of area exigencies threaten European interests, as in the last two Persian Gulf Wars.

Along with the establishment of this multilateral force would flow the creation of a Multilateral Intelligence Command. This command would provide direct support to the multilateral force using European national technical means. It would also coordinate collection and analysis efforts directly with parallel U.S. agencies in support of the Atlantic Council. This structure would reduce the reliance of Europe upon American intelligence, enhance trust among members of the European Command on intelligence matters, and would organize better the vast array of intelligence information available to all members of the alliance.

Outside of military measures to improve consultation in NATO, the Council itself can develop confidence and trust by increasing the number of Ministerial Sessions held each year from two to three. The augmentation of an additional meeting would bring NATO Foreign Ministers together in an effort to avoid agendas filled with nothing but declarations and resolutions, and

provide much needed time for some true consultation between parties on the essential issues.

The inclusion of Heads of State should be limited to one session per year, unless circumstances require greater. The concentration on summary, while visually attractive and often politically imperative, generally accomplishes little of substance because of the limited time available, confined scope of agreements, and the great aversion to the possibility of a summit failure. Therefore, the greatest trust, cooperation, and consultation can occur at the Foreign Minister and Permanent Representative levels and should be facilitated by all means possible.

A second way to ensure that consultation and coordination in the Council are improved would be to declare issues of common concern for the Council, in which a majority decision by the members would be required for agreement.⁷³ A plan such as this would provide a distinct understanding on a limited range of agreed upon issues, but would also bring about a stronger commitment to cooperation by all members of the Atlantic Alliance.

This landmark event would advance the alliance well beyond consultation and toward the realm of collective decision-making. Obviously this plan would have to begin in a very limited nature, encompassing issues of

⁷³This idea is adapted from a Soviet plan to bring about mandatory jurisdiction of the ICJ to the Five Permanent Members of the Security Council on several basic issues in order to enhance the effectiveness of the Court. See Paul Lewis, "World Court Plan Meets Difficulties," New York Times, 24 June 1990, 3.

the most basic effect. However, if approached properly, this proposal could serve as the basis for a truly new political and military security order in Europe.

Finally, the roles of Chairman of the North Atlantic Council and Secretary General of NATO must be elevated to include the power which they at present only hold in terms of protocol. If the Atlantic Alliance moves closer to a bilateral relationship between North America and Europe, then the position of Chairman and Secretary General must be strengthened significantly. This is a serious imperative because there must be a power base, such as in the European Commission, through which the interests of both sides of the Atlantic partnership can be balanced equitably. Only through a strong NATO structure can this be achieved.

Measures of increased power for the Secretary General might include the ability to act in a direct role with the President of the EC Council, through European political cooperation (EPC), on matters of common concern to the EC and NATO. Issues of common concern might include Eastern Europe, the Middle East, and other regional political issues. An enhanced Secretary General would present a more united front in other European Security fora, such as the CSCE, and in dealing with the Soviet Union on alliance issues. All of these means would result in a broader base of power established between Europe and North America and would invoke a legitimacy to NATO's decision never before known.

CONCLUSION

Many critics of NATO have suggested that other means can be utilized or created to accomplish the tasks of NATO, or effect the same results in a more efficient way.⁷⁴ That may become true eventually. However, for the present time, NATO is the only organization in being and capable of planning for the defense of Western Europe, the Atlantic, and adjacent areas. The fact that the United States does not have bilateral security treaties with any of the West European members of NATO, or with Canada, makes NATO's necessity if nothing more than a defensive arrangement that much more essential to European security.⁷⁵

With the preceding argument in mind, one can assert that the responsiveness of the Atlantic Alliance to the changing political environment from its inception through its fourth decade has proven the success of its founding ideals. This is evidenced by the enlightened spirit of each of the documents analyzed throughout this paper: The North Atlantic Treaty of 1949; the report of the Committee on Non-Military Cooperation of 1956; the Harmel Report of 1967; the Ottawa Declaration of 1974; and the 1990 London

⁷⁴See John Newhouse, "The Diplomatic Round," The New Yorker (27 August 1990): 78-89, for a commentary on diplomatic views of the relevance of the EC and CSCE to European security.

See also John Palmer, Europe Without America: The Crisis in Atlantic Relations (Oxford: Oxford University Press, 1987), 156-192, for suggestions on Europe's future course after the expected demise of NATO.

⁷⁵James Elster, NATO Defense Planning in The 1990's (Washington, DC: Presearch, Inc., 1990), 2.

Declaration on a Transformed North Atlantic Alliance. Each of these documents emerged during a significant stage of development for the alliance and, it can be affirmed, they reflect the transformation of the alliance into a truly international regime.

This paper has presented several conclusions regarding the nature of the international system, the effectiveness of consultation as a regime-building mechanism in NATO, and NATO competence as an integral aspect of an overall European security regime. One final encompassing conclusion of this paper is, first, considering: the increasing interdependence of the international system; the significant role NATO has played in the maintenance of a stable security regime for the last four decades; and the growing importance of a European pillar to a collective security regime; there exists a role for an organization designed to protect and advance the interests embraced by Western States. Second, understanding: the experience of NATO as a cohesive alliance; its constant efforts to advance the normative basis of consultation; and its expression of a desire to act as a catalyst for change in Europe; distinguishes the North Atlantic Alliance as a capable, versatile, and visionary entity ready to seize the moment and place European security in the forefront of any definition of a "New World Order." Upon reflection, one can say that the sage advice of the great Atlanticist, Winston Churchill, noted on the first page of this essay, has been understood and implemented rather well by the North Atlantic Alliance.

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